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ABSTRACT

Written for parents of handicapped children, the handbook describes the process for obtaining a free, appropriate public education for such children as set forth in Public Law 94-142 (Education for All Handicapped Children Act) and Section 504 of the Rehabilitation Act of 1973. An initial explanation of terms (such as "least restrictive environment" and "related services'" is followed by an overview of the process, including parental responsibilities. Subsequent sections address issues related to assessment, evaluation, placement, and the individualized education program (IEP). Definitions of handicapping conditions are provided. A discussion of parent participation in the IEP planning meeting includes three checklists for parents to use. A section on vocational education describes Public Law 94-482 (the Vocational Education Act Amendments of 1976) and discusses the relationship of the IEP to vocational goals. Information on vocational education assessment and on the nature and importance of the vocational IEP meeting is also provided. A final section discusses the due process hearing, including parental rights, school responsibilities, and the formal procedures involved. (JW)

Obtaining a Free and Appropriate Public Education

ED275089

A Handbook for Parents of Children with Special Needs

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by Beth Ann Kelly

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Tacoma, Washington 98405
Phone (206) 272-7804
Director: Martha (Marty) Gentili

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2032 San Pablo Avenue
Berkeley, CA 94702
Phone: (415) 644-2555, (415) 644-2629 TDD

DREDF's field office is located at:

1346 Connecticut Avenue. N.W., Suite 1124
Washington D.C. 20036
Phone (202) 659-4684 voice or TDD

The director is Mary Lou Breslin

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407 - 14th Ave. S.E.
Puyallup, WA 98371
Phone (206) 848-6661 ext 1118
Director: Burton D. Pusch

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ABOUT THE AUTHOR/ARTIST

Many parents of children with disabilities feel overwhelmed when they learn that there are laws that dictate their handicapped child's right to education. I was. But after a few years of working with the school system to get an appropriate education for my son, I realized I needed to find out exactly what those laws said. As I read them, I knew I had a tool in my hands that stipulated the school district's and my responsibilities in providing my son with an education. Since I have a brother who has a disability, I also realized that with these laws my handicapped child is guaranteed an education, where twenty years ago there was no such guarantee.

Until the passage of the Education for All Handicapped Children Act (P.L. 94-142) in 1975 and the Section 504 regulations for the Rehabilitation Act in 1973, children with disabilities were not guaranteed the right to an education. In fact, many children with disabilities were denied entrance to the public school system. Those who were admitted were usually segregated from the "normal" children, and they often received an inferior education.

One aspect of any child's education is exposure to the society in which we live. Due to the segregation experienced by most handicapped children -- including those with normal and above normal intelligence -- many of them left the school system with little practical knowledge of how to live independently in society. P.L. 94-142 and Section 504 both stipulate that handicapped children be educated with non-handicapped children to the greatest extent possible. For some, that may mean eating lunch and having recess, music, and art with their non-handicapped peers. For others, it may mean being in regular education class for all but one subject. By exposing handicapped children to to their peers and the world as they are growing up, they will be better prepared to live as independent adults.

Total independence is not a realistic goal for all handicapped children. Some children will not be able to live alone as adults. However, parents should always keep in mind the goal of maximizing their child's potential, whatever that potential is. Even severely mentally disabled individuals are able to be gainfully employed given appropriate education, and severely physically disabled individuals can hire attendants to perform the physical activities they are unable

to do for themselves. Many severely physically handicapped persons hold professional positions in their communities.

Parents' expectations of their children are usually the expectations that children adopt for themselves. Therefore it is important that you, the parent, have high expectations and at the same time be realistic. Not only will your child adopt your expectations, but professionals and educators who work with your child will also be more likely to strive to maximize your child's potential.

Taking into account all that you know about your child (strengths, weaknesses, personality, likes, dislikes, hobbies and interests) give some thought to realistic long-term goals for your child. Try not to let your child's disability dictate limitations. Visualize your child living alone as an adult; visualize your child pursuing career goals; visualize your child taking care of him or herself and performing all the tasks required to survive in this society. With this image of your child as an independent adult, use this handbook to get an appropriate education, one that will allow your child to live in our society as independently as possible, realizing his or her personal and career goals.

There are two federal laws which give you and your handicapped child specific rights in regard to education: the Education for All Handicapped Children Act of 1975 and Section 504 of the Rehabilitation Act of 1973. The rules and regulations that spell out how these laws are to be implemented are Public Law 94-142 and Public Law 93-112, respectively. (In this handbook these laws will be referred to as P.L. 94-142 and Section 504.) It is important that you, the parent of a handicapped child, be aware of the rights and responsibilities these laws stipulate for both you and the school district.

In addition to the federal laws, each state that receives federal funding to educate handicapped children also has laws which affect your handicapped child's education. Federal laws supercede state laws unless the state laws give more protections and rights than do the federal laws.

Public Law 94-142's purpose is: "To insure that all handicapped children have available to them a free appropriate public education which includes special education and related services to meet their unique needs; To insure that the rights of handicapped children and their parents are protected; To assist States and localities to provide for the education of all handicapped children; and To assess and insure the effectiveness of efforts to educate those children."

Section 504 states: "No otherwise qualified handicapped individual in the United States . . . shall, soley by reason of his handicap, be excluded form participation in, be denied the benefit of, or be subject to discrimination under any program or activitiy receiving federal financial assistance."

The regulations of these two laws set forth a process through which parents, handicapped children, and schools must pass to insure that handicapped children do receive a "free appropriate public education." As you, the parent, read this handbook, you will learn about your and your child's rights as set forth in P.L. 94-142 and Section 504. You will also learn how to be actively involved and effective in efforts to insure that your child does indeed receive a free appropriate public education.

This handbook explains and describes the process set forth in the federal laws. Copies of the Education of All Handicapped Children Act of 1975, P.L. 94-142; Section 504 of the Rehabilitation Act of 1973, P.L. 93-112; and the Vocational Education Act Amendment of 1976, P.L. 94-482 are available from the U.S. Office of Education, Donohoe Building, 400 - 6th Street, S.W., Washington, D.C. 20202. In addition to these laws are state laws, copies of which are available from state legislators or at your state capitol. And, for further assistance, there are advocacy organizations which can help parents through the process. Call your local Association for Retarded Citizens, Association for Children and Adults with Learning Disabilities, or any parent group that you know. You may contact the agencies that printed this book for referral or assistance. They are:

PAVE Parent-to-Parent Project
1010 South I Street
Tacoma, Washington 98405
(206) 272-7804

and

Disability Rights Education and Defense Fund
2032 San Pablo Avenue
Berkeley, California 94702
(415) 644-2555

At the time that this handbook is being written, both P.L. 94-142 and Section 504 regulations have faced proposed changes. Because of public response, thus far no changes have come about. Regardless of what happens at the federal level, parents should continue to be actively involved in getting appropriate services for their handicapped children.

EXPLANATION OF TERMS

Throughout this Parent Handbook, terms will be used with which parents may not be familiar. Brief definitions will be given here, wherever possible coinciding with the definitions given in P.L. 94-142 and Section 504. More detailed explanations will be found in following sections of the book.

Free Appropriate Public Education

Free Appropriate Public Education means that handicapped children are to be educated at no expense to the parents, in an educational program designed to meet each child's unique educational needs, and with non-handicapped children to the greatest extent possible (P.L. 94-142).

Assessment

Assessment is a process of determining whether a child is handicapped and the nature and extent of the handicap. Assessments are done on an individual basis and are used to determine the unique educational needs of the child.

Evaluation

Evaluation is similiar to assessment. Specifically, evaluation means gathering test results and observations and synthesizing the findings to help determine the unique educational needs of the child. Evaluations are done on an individual basis (P.L. 94-142 and Section 504).

Individualized Education Program

The Individualized Education Program (IEP) is a written statement for a handicapped child that is developed by a team (parents being important members of the team) and that states educational goals and related services to be provided by the school district to meet the child's unique educational needs (P.L. 94-142 and Section 504).

Related Services

Related Services, sometimes referred to as Supplementary Aids and Services, are services such as transportation or therapy that the child requires in order to benefit from special education (P.L. 94-142).

Least Restrictive Environment

Least Restrictive Environment means "that to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are to be educated with children who are not handicapped, and that special classes, separate schooling or other removal of handicapped children from the regular educational environment should occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily" (P.L. 94-142).

Impartial Due Process Hearing

Impartial Due Process Hearing is a formal procedure spelled out in the regulations in which parents and school districts may resolve disagreements regarding (1) the identification, evaluation, or educational placement of a handicapped child or (2) the provision of a free appropriate public education to the child (P.L. 94-142 and Section 504).

Mediation

Mediation is a less formal process that some states and school districts use to try to resolve issues through negotiation, thus attempting to settle the issue prior to a due process hearing (P.L. 94-142).

Vocational Education

Vocational Education means "organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment" (P.L. 94-142).

AN OVERVIEW OF THE PROCESS

This section briefly outlines the process, as set out in P.L. 94-142, that you and your child must follow to insure that your child receives a free appropriate public education. You will find in-depth explanations of each step in the following sections of this handbook.

Identification and Evaluation

First, your child must be identified as possibly having a "handicap". This may be done by you, the child's physician, the school district or any interested person who makes your child a "focus of concern" in writing to the school district. Then your child must be assessed to determine his or her unique educational needs. Usually the school district does the assessments. If you have assessments from other qualified personnel, the school district must take the results into account when they assess your child.

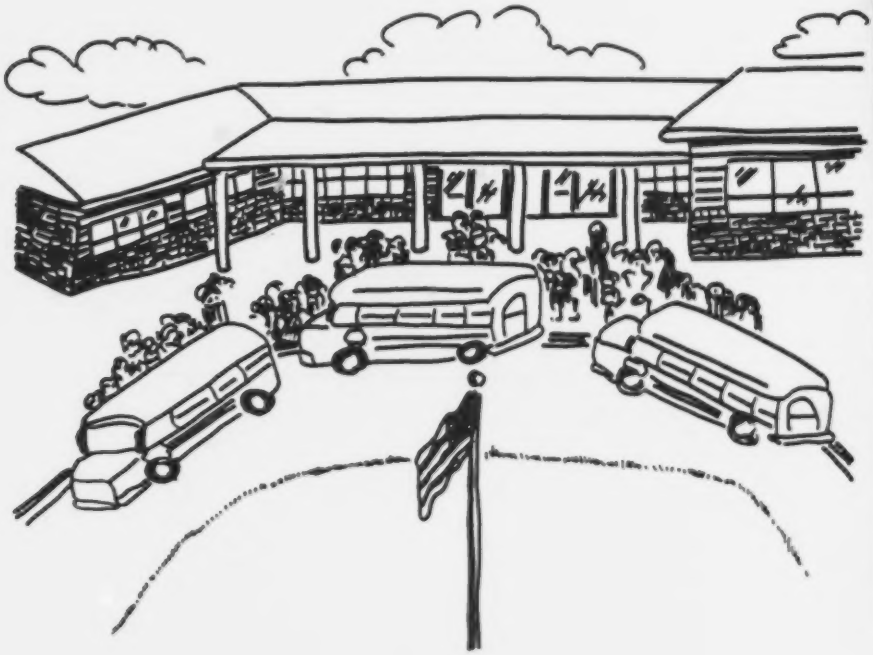
In order to assess your child's unique educational needs, more than one test must be used. An IQ test is not sufficient! Tests should identify your child's strengths and weaknesses. They must be administered by qualified personnel in your child's native language. Since the results of tests are used to determine your child's present level of performance and appropriate educational placement, it is important that the evaluation includes tests in all areas of suspected disability, including health, vision, hearing, social and emotional status, general intelligence, academic performance, communication skills, and motor abilities.

As a parent, you have certain rights concerning your child's assessment. You must give your permission, in writing, for your child to be assessed. You have the right to an explanation of the reason an evaluation has been requested and to the name of the person who requested the evaluation. You have the right to an explanation of the evaluation procedures and instruments that will be used. You have the right to a description of the scope of the procedures and instruments that will be used, and a right to review the procedures and instruments

to be used. Furthermore, you have the right to have the results of the evaluations explained to you so that you understand them.

As a parent, you also have the right to refuse permission for the evaluation of your child. If you do refuse permission, the school district may request a hearing to present its reasons for requesting an evaluation and to try to obtain approval to conduct the evaluation.

You have the right to obtain an independent educational evaluation from qualified personnel. As stated above, the school district must take these evaluations into account.



The Individualized Educational Program Document

The IEP Document is the school district's written commitment of services it will provide your child. You may hold the school district legally responsible to provide the services specified on the IEP.

Once your child has been identified and evaluated, an Individualized Education Program (IEP) must be written by a team. Parents are an important part of that team. Other members of the team are: an individual who has the authority to provide or supervise special educational services; the child's teacher; your child, if appropriate; someone who is familiar with the evaluation procedures used with your child and who is familiar with the results of the evaluation (preferably the person who evaluated your child); and other individuals at the discretion of the parent or the school district.

At the IEP meeting you and school district personnel make joint decisions about your handicapped child's educational program. The IEP is a document which specifies how your child's individual educational needs will be met. The IEP must be written with a focus on your child's educational needs, and not according to what services the school district has available. The IEP must be written prior to placing your child in special education, and a new IEP must be written at least once a year after initial placement.

The IEP must include the following information:

1. The child's present level of educational performance, including social adaptation, vocational skills, motor skills, and self-help skills.
2. Annual goals and short-term instructional objectives. (The school district cannot be held responsible if your child fails to meet these goals, but it must make good-faith attempts at helping the child achieve them.)
3. Specific special educational and related services needed. This includes the amount of time spent in special educational classes and such services as physical therapy, occupational therapy, speech therapy, and transportation to and from school.

4. A description of the extent to which the child will be mainstreamed into the regular education program.

5. The date of placement of the child in special education and the expected duration of services.

6. Appropriate objective criteria and evaluation procedures for determining, on at least an annual basis, whether the short-term instructional objectives are being acheived.

It is very important that all this information is included in the IEP. Parents should pay sepcial attention to the provision of related services on the IEP (number 3 on the above list). Remember: the school district is not responsible for providing services that are not specified in the IEP.

Placement

After the IEP has been written, and not before, you and the school district decide what is appropriate placement for your handicapped child. Your child's educational program must meet his or her unique educational needs. The school district is obligated to provide a continuum of placement options; that is, a number of placements in which your child's educational needs can be met. Just as the IEP is based on your child's unique educational needs, so the placement must be based on the IEP, not on what services the school district has available. Also, your child has the right to attend the school nearest your home and/or a school which integrates handicapped children with non-handicapped children.

As a member of the placement team, you have the right to disagree with proposed placement for your child if it is inappropriate. To determine whether a placement is appropriate you must observe the educational setting proposed for your child. Since the school district is obliged to provide a continuum of placements for handicapped students, you should observe all proposed placements.

As your child developes, his or her educational needs will change. From time to time placement changes will need to be made. Changes of placement may not be made without your knowledge. Each change of placement should be made after an IEP meeting to insure that all the child's educational needs are documented and will be met in the new placement.

Impartial Due Process Hearing

If there is a major problem in the process of the identification, evaluation, individualized education program, or placement of your child that cannot be worked out by negotiation between you and the school, then you may request a due process hearing. The school district also has the right to request a due process hearing on these matters.

A due process hearing is a formal procedure wherein a third party rules on disagreements between parents and the school district. Although a due process hearing is not the same as going to court, the hearings are conducted in the same manner as a court hearing. When parents request a due process hearing, they should be fully informed of the law and have their case well documented. Parents should have legal counsel for a due process hearing. Although it is not required, it is wise to do so, since the school district will undoubtedly have an attorney presenting their side of the issue.

The school district is responsible for holding the hearing within forty-five days from the date you request it.

The hearing officer must be an impartial third party. The school district is required to keep a list of hearing officers that includes their qualifications. The school district is also required to inform you of free or low-cost legal services available in your area.

In the event that you or the school district wishes to appeal the decision made by the hearing officer, the state education agency must conduct an impartial review of the hearing and issue its findings within thirty days.

The following procedures are optional, and may or may not be available in your school system.

Mediation

In some states and/or school districts, mediation of issues is proposed after a hearing is requested. This is an attempt to resolve the areas of dispute before the hearing. Parents have the right to refuse to attend a mediation session.

At mediation a third party is present. The parents and the school district present their dispute, and the third party facilitates negotiation between the two parties. If the negotiation session does not resolve the issues, the hearing must be held within forty-five days of the date the initial request was made.

Pre-Hearing Conference

Some hearing officers schedule pre-hearing conferences with the school district and the parents. At the conference, the hearing officer sets out the procedures that are to be followed at the hearing, and may specify the hearable issues. Negotiations may take place in a pre-hearing conference, and issues may be settled without going into hearing. Again, if the issues are not resolved, the hearing must take place within the forty-five day time limit.

As the parent of a handicapped child, you have a very important function as a member of the team that determines your handicapped child's educational programs. In order to be an effective member of the team you must be as fully informed as possible of all information relevant to your child's educational needs. This includes being fully informed about your child's specific disability (how your child's functioning is affected by his or her disability, what physicians and/or therapists have identified as areas of concern and what recommendations they have made) in addition to knowing all educational evaluations done on your child. Since this is a lot of information to keep in one's head, and since much of the information may be given to you in technical jargon (for which you should always ask a layman's explanation) you will find it easier to maintain a file on your handicapped child.

Parent's Documentation

Besides helping you keep information about your child in one place, a home file has some other advantages. It can serve as a chronological documentation of your child's development; it will help you document your child's special needs; and it will be most useful as you develop your child's IEP. Should you have to attend a due process hearing, a home file will make things much easier for both you and your attorney.

The Family Educational Rights and Privacy Act, also known as the Buckley Amendment, gives all parents of students under 18 years of age the right to see, correct, and control access to student records. If your child is in school, start your home file by reviewing your child's educational records. Call the school district and make an appointment to do this. Ask if you can have copies of the files (you may be asked to pay for the copying) and also request that someone from the school district who is knowledgeable about testing procedures be present, so that you may receive explanations about information you do not understand in the records. Take notes. Note every item and its date in your child's file. This will expedite future record reviews.

Add to the information you've gathered from your child's educational records all reports you have received from other professionals who have seen your child. These include doctors, social workers, psy-

chologists, psychiatrists, tutors, and physical, occupational, or speech therapistswho may have worked with your child. It is especially important to have copies of any recommendations professionals outside the school district have made for your child's education.

In your home file keep copies of your child's IEPs and any written correspondence with the school district. Also, keep a log of telephone conversations with school district personnel. Note the date, the person you talked with, and what was discussed. Be sure you note the date that you can expect further information on any unanswered questions. By keeping a log, you will be sure that you are recalling conversations accurately.

You may want to include samples of your child's work in your home file, along with all report cards. Keep everything in chronological order.

You may also want to add your own observations of your child's interests and abilities, as well as noting ways that you have found to help your child function more independently. Include in this section of your home file any information that you think might be helpful to professionals who work with your child.

Once you have compiled all of the above information, be sure to keep your home file up to date. Refer to it whenever you are preparing for an IEP meeting or when educational placement changes are being considered.

The preceding overview gave the major provisions of the laws and the essential aspects of the process of obtaining a free appropriate public education for your handicapped child.

As a parent, you are responsible to be informed of and to protect your handicapped child's rights. By reading this handbook, the laws and other material on the rights of handicapped children, you will be an informed parent. Protecting your child's rights requires being clear about what those rights are and speaking up when they are not respected. When you disagree with the school about your child's education or any part of the process, you have a responsibility to express your concerns to the school personnel. Working with the school personnel is essential, and you may expect some negotiation as you go through the process. Negotiation is acceptable, but you need never compromise your child's rights or your own.

As you read this chapter of the handbook you will learn of all your and your child's rights and of the school district's responsibilities to you and your child. Study it carefully, refer to it often, use it as your guide through the process of getting your handicapped child a free appropriate public education.

ASSESSMENTS

Parental Rights

Under the existing regulations, parents have the right to be notified if the school district intends to assess a child in order to determine the possibility of need for special educational services. The parent must consent to such assessment in writing. The parent has the right to be fully informed of what tests are being administered and why. When the tests are completed, parents have the right to be fully informed of the findings and of their implications.

Child's Right to a Fair Evaluation

In testing a child, there are specific guidelines which the school district must adhere to for the tests to be considered valid. These are:

1. Tests must not discriminate against the child. This means that tests must not be culturally or racially biased and must be administered in the native language of the child. Interpreters must be provided for deaf children. For visually impaired children, braille, tape-recorded tests, readers, or large-print tests should be used, depending on each child's need.
2. No single test shall be used as the only criterion for determining an appropriate placement for a child. In other words, an IQ test is not sufficient to determine what a child's unique educational needs are.
3. Tests must be designed to assess the specific areas of educational need for which they are used, and they must be administered by trained personnel.
4. Tests must be selected and administered which will accurately reflect the child's aptitude and achievement level, and not just the child's disabilities.
5. Evaluations must be made by a multi-disciplinary team, including at least one person who is knowledgeable in the area of suspected disability.
6. The child must be assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communication skills, and motor abilities.

If your child is suspected of having a learning disability, an evaluation team member other than your child's regular teacher must observe your child's academic performance in the regular classroom setting. If your child is not yet in school, then he or she must be observed in an environment appropriate for a child of his or her age.

Purpose of Evaluations

Evaluations are conducted for two reasons. The first is to determine whether a child is handicapped or not. A child is considered handicapped if the child needs special education and/or related services in order to benefit from educational programming.

The second reason for evaluating your child is to document his or her educational strengths and needs. Your child's IEP should be based on the results of the evaluations. For this reason it is imperative that the evaluations cover all areas of your child's development and are specific enough to determine just what special educational and supportive services your child needs.

P.L. 94-142 and Section 504 each give guidelines for determining whether or not a person is handicapped. Section 504 does not define specific handicaps but specifies a "handicapped person" as one who has a "physical or mental impairment which substantially limits one or more major life activity, who has a record of such impairment, or who is regarded as having such an impairment." Section 504 is much broader than P.L. 94-142 in its definition of a "qualified handicapped person," that is, an individual whose rights are protected by Section 504 and P.L. 94-142. The following conditions are mentioned in Section 504: "physical or mental impairment means any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardio-vascular; reproductive, digestive, genito-urinary,hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."

Although this handbook does not address the rights of handicapped individuals outside of preschool, elementary, and secondary education, as parents you should be aware that Section 504 provides protection in post-secondary education and employment situations for disabled individuals. Section 504 also mandates that all agencies which receive federal funding (hospitals, college, vocational schools, transportation systems, social and health services) be accessible to handicapped individuals.

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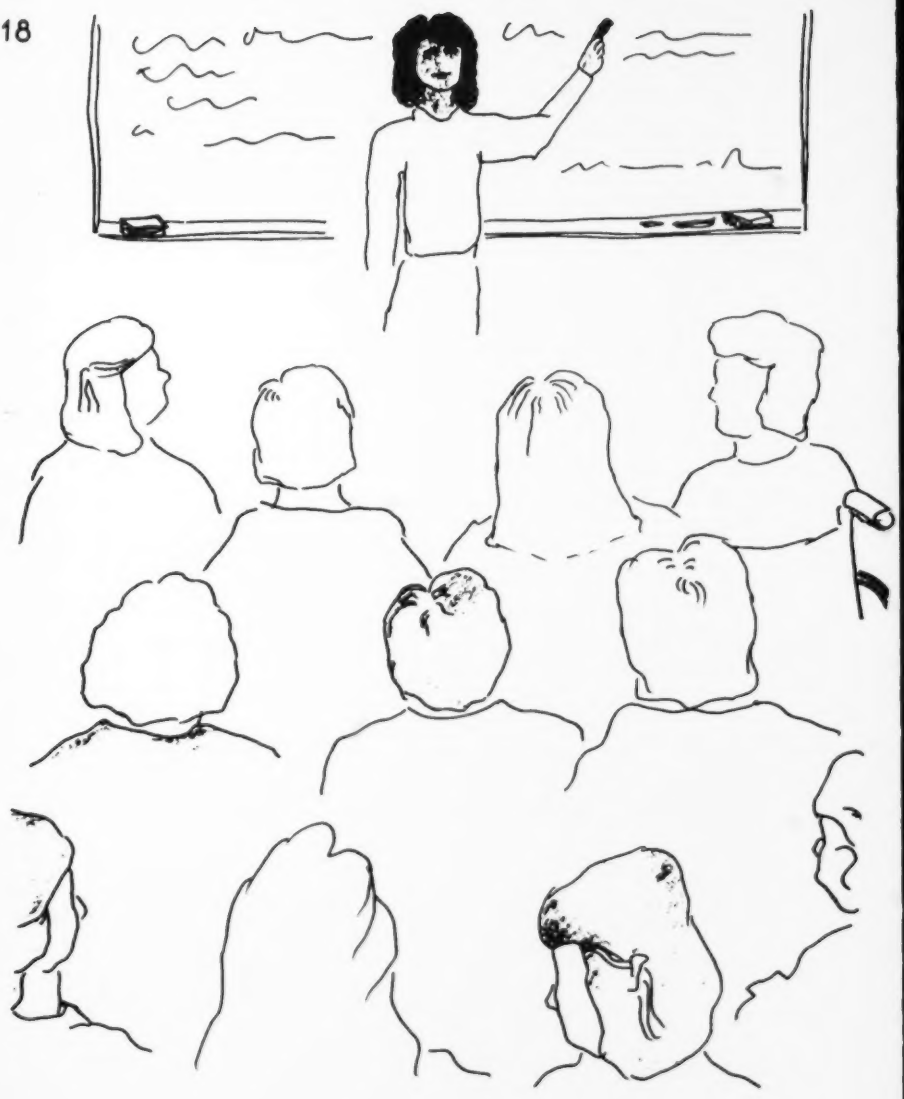

P.L. 94-142 is more specific in its definitions of handicapping conditions. In the regulations, eleven handicapping conditions are defined. They are as follows:

Deaf

Deaf means a hearing impairment so severe that the child is impaired in processing auditory (spoken) information with or without amplification, and is therefore adversely affected in educational performance.

Deaf-blind

Deaf-blind means combined hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs solely for deaf or blind children.

Hard of Hearing

Hard of hearing means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of deaf.

Mentally Retarded

Mentally retarded means significant subaverage general intellectual functioning that exists along with deficits in adaptive behavior and is manifested during the developmental period and which adversely affects a child's educational performance

Multihandicapped

Multihandicapped means co-existing impairments (such as mentally retarded/blind, mentally retarded/orthopedically impaired, etc.), the combination of which causes such severe educational problems that the child cannot be accommodated in special education programs solely for one of the impairments. The term does not in-
'ude deaf-blind children.

Other Health Impaired

Other health impaired means limited strength, vitality, or alertness due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes that adversely affects a child's educational performance.

Orthopedically Impaired

Orthopedically impaired means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

Seriously Emotionally Disturbed

Seriously emotionally disturbed is defined as follows: a condition exhibiting one or more of the following characteristics over a long period of time and to such a marked degree that it adversely affects educational performance:

a) An inability to learn which cannot be explained by intellectual, sensory, or health factors;
b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
c) Inappropriate types of behavior or feelings under normal circumstances;
d) A general pervasive mood of unhappiness or depression;
e) A tendency to develop physical symptoms or fears associated with personal or school problems.

The term "seriously emotionally disturbed" includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

Specific Learning Disability

Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, write, spell, or perform mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps; of mental retardation or emotional disturbance; or of environmental, cultural, or economic disadvantage.

Speech Impaired

Speech impaired means a communication disorder such as stuttering, impaired articulation, or a language or voice impairment that adversely affects a child's educational performance.

Visually Handicapped

Visually handicapped means a visual impairment which, even with correction, adversely affects a child's educational performance. This term includes both partially seeing and blind children.

Although the above list seems extensive, the P.L. 94-142 regulations go on to state that the listed hanicapping conditions are not all the possible ones that are covered by these regulations, "whether like or unlike the ones named."

Parents sometimes have difficulty with the labels ascribed to their handicapped children. The above labels are not intended to be descriptions of your child, only of the disability your child happens to have. There is no need for your child's handicapping condition to be written on the IEP. Once your child is identified as having a handicapping condition, the school district will use that information for funding purposes to provide your child the speical education and related services he or she needs. Your child should never be treated as a "handicap," but should be looked at as a whole person who happens to have a disability and who needs a special education program and/or related services in order to learn.

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The IEP is a contract between you and the school district that documents your child's educational needs and the special education and related services the school district will provide your child to meet those needs.

Once your child has been evaluated and it has been determined that your child needs special educational and/or related services, you will be asked to attend an IEP meeting. It is imperative that you attend that meeting. At that meeting the IEP document will be written, and your input is crucial. The P.L. 94-142 regulations stipulate that you are a member of the team that writes the IEP document. You have a responsibility to be there and to be a participating member of the team.

Because of the importance of the IEP, the following section of this handbook will provide you instruction on how to prepare to attend the IEP meeting, who must be at the IEP meeting besides you, and what must be included on the IEP documents. Further explanation of related and supportive services will also be given, as these must be included on the IEP. Vocational education will be mentioned briefly in this section, with more detailed coverage given in a subsequent section of the handbook.

Preparation

As you prepare to go to your child's IEP meeting, be sure that your home file is up to date, that you have copies of recent evaluations, and that the results of those evaluations have been explained to you. Double-check to be sure all the evaluations that your child needs have been completed. Check your child's last IEP, if there is a previous one, and see if any evaluations were recommended. If so, have they been performed? If not, schedule them before the IEP meeting.

Update Information

Add to the above information any information about your child's health. Have there been any changes in your child's health or physical condition since the last IEP meeting? If so, be sure that you have a letter from your child's physician stating what changes have occurred and how those changes affect your child's ability to participate in the school setting. Be sure that you have an extra copy for the school.

Itemize

From the information you have collected, make a list of what your child needs and of your concerns. Include in the list these items:

1. Your long term goals for your child. (These goals can be for a year from now or ten years from now.)
2. What your child needs to learn now.
3. How your child learns best (visually, auditorally, tactilely).
4. What related services your child needs (occupational or physical therapy, speech therapy, transportation, etc.).
5. Pre-vocational or vocational education.
6. How your child should be disciplined at school. What are effective reinforcers for your child? What are alternative methods of dealing with behavior other than suspension?
7. Physical education, adaptive or regular.
8. How much time your child should be spending with non-handicapped children and in what settings -- mainstreaming.

Compare

Now, compare the above list with your child's current IEP if there is one. Note what is still appropriate for your child. Note which things should be deleted from the current IEP. Specify what additions should be made and, if possible, back up your requests for additions with evaluations or letters from professionals.

Review

Find a person who is knowledgeable and concerned about your child who is willing to go to the IEP meeting with you to offer you moral support. (That person could be an advocate from a local parent group, a neighbor, or a family member.) Go over your list with that person prior to the IEP meeting.

Meeting Participants

Be sure you know who will be at the IEP meeting. The regulations stipulate that at a minimum the IEP team must consist of a special education administrator or designee who can authorize special education and related services that the school district will provide. If your child is attending a school outside your local school district or a private school, a representative from your home school district must be at the IEP meeting. The child's teacher must be there and so, of course, must you. In addition, your child may be at the meeting if that is appropriate. If your child has been evaluated since the last IEP meeting, request that a member of the assessment team be at the IEP meeting. Both the school district and you have the right to request that other persons be present. The meeting must be held at a mutually agreed upon time and place.

The IEP Meeting

When you arrive at the IEP meeting, you will be well prepared to participate in the writing of the IEP. You will need to take your list with copies for all members of the IEP team. Also, take your home file in case you need to refer to it. Be sure that you have copies of any letters or evaluations from persons outside the school district; for example, your child's physician. Be sure that everyone who is supposed to be at the meeting has arrived before the meeting begins.

As you know, the purpose of the IEP meeting is to write the IEP document. It is this document that insures that your child receives an individualized and appropriate educational program based on his or her educational needs. Therefore, at the IEP meeting you are responsible for seeing that your child's needs will be met by the school district. As the parent of the child, one of your key roles is to keep the meeting focused on your child's needs.

IEP: A Legal Document

The IEP is a legally binding document in that the school district is legally obligated to provide the services to your child that are written in the IEP. You may take the district to a hearing if it does not provide those services. You may not hold the school district or your child's teacher responsible if your child does not attain the goals written in the IEP. However, if your child is not attaining the

goals written in the IEP, it is an indication that the educational program is not appropriate for your child, and a new IEP should be written.

Once the IEP is completed, you will be asked to sign it. Read and reread the entire document before you sign it. You may request to take a copy home to discuss it with your spouse or just to think it over before you sign it. Do not sign the IEP if you feel it does not meet your child's educational needs or if it does not include all the related services your child needs.

For further information about what to do if you decide not to sign the IEP, refer to the Due Process section of this handbook.

The IEP Document

According to federal regulations, the IEP must contain the following information:

1. The child's present level of educational performance.
2. A statement of annual goals, including short-term instructional objectives.
3. A statement of the specific special education services to be provided the child.
4. A statement of the related services to be provided to the child.
5. The extent to which the child will be able to participate in the regular educational program.
6. The projected dates for initiation of services and the anticipated duration of the services.
7. The appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

Other things that should be included in the IEP are:

1. Statements about the child's present social, motor, vocational, and self-help skills (to be written under the child's present level of educational performance).

2. The number of times each week the child will receive each needed related service, for how long each time or for how many hours per week; and the name of the therapist who will provide the service.

3. The number of hours each week the child will spend in a special education program and in the regular education program.

4. The type of physical education the child will receive, regular or adaptive, and for how many hours each week.

5. The projected date of the next IEP meeting, which should be no more than one year from this meeting, and sooner if the parents or school personnel feel it is necessary.

RELATED SERVICES

Related services are those services your child needs in order to benefit from the educational program and that are not provided by a special education teacher. They must be written into the IEP. P.L. 94-142 specifies what related services are; the regulations read as follows:

> The term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child in benefiting from special education. They include speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

If your child needs any of the services named, be sure that they are written into the IEP.

It is appropriate and essential that you, the parent, speak up at your child's IEP meeting. Be aware of and comfortable with your role as an equal participant in developing, reviewing, and revising your child's IEP. Be sure that your input and concerns about your child's education be taken seriously by the IEP team. Keep the meeting focused on your child's educational needs. Keep the IEP goals consistent with your goals, so that your child will be able to live as independently as possible in the mainstream of society. Insist that all the services your child needs are written in the IEP, keeping in mind that the school district is only responsible for providing those services which are specified on your child's IEP.

1. Review your child's records and current IEP, if there is one.
2. Get copies of:
   a. recent evaluation results;
   b. recommendations by professionals outside the school system;
   c. letters from your child's physician stating any changes in your child's health and how that affects your child's ability to participate in school activities.
3. Make a list of long-term goals you have for your child.
4. Make a list of short-term goals. What does your child need to learn next?
5. What related services does your child need?
   a. transportation to and from school?
   b. speech therapy?
   c. psychological services -- further testing or assessment?
   d. physical therapy?
   e. occupational therapy?
   f. counseling?
   g. social work services?
   h. parent counseling or training?
6. Who will be at the IEP meeting?
   a. teacher?
   b. principal, or someone who can authorize special education and related services?
   c. someone familiar with assessment procedures, the results, and your child?
   d. you, of course!
   e. a moral support person for you?
   f. other?

1. Take your home file to the meeting.
2. Is everyone present who should be there? If not, have those who are not present submitted their input in writing?
3. Is someone at the meeting who can authorize services for your child?
4. Have all of your concerns about your child been addressed and resolved? Check each concern off as it is resolved. Do not leave any concern undiscussed.
5. At the meeting, make a list of things people say they will do. Include the person's name and the date when the task will be completed.
   (Follow up to be sure these things are done.)
6. Keep to the issue of YOUR CHILD'S needs at the meeting.
7. Read and REREAD the IEP before you sign it.

Be sure the IEP has the following information written on it before you sign the document:

1. Your child's present level of performance, including academic, motor, social, vocational, and self-help skills.
2. Annual goals and short-term instructional objectives.
3. Specific special education services to be provided for your child.
4. Specific related services to be provided your child.
5. The extent to which your child will be participating in the regular educational program.
6. The amount of time your child will be in special education each day or week.
7. The number of hours, each day or week, that your child will receive each related service.
8. The projected dates that your child will begin to receive all of the above services and the amount of time your child will receive each of them.
9. The method by which it will be determined whether your child is achieving the short-term instructional objectives and the date of the next IEP meeting (not to exceed one year from the date of the current IEP).

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Once your child's IEP has been written, the decision about educational placement (exactly which school and which classroom your child will attend) must be made. This decision cannot be made before the IEP has been written. (Your child may, however, be placed in a special education program for up to 30 days without an IEP.) You, the parent, have a say in the placement of your child. The P.L. 94-142 regulations stipulate that you must give written consent before your child can be placed in a special education program. This written consent is required for initial placement only. Once your child is placed in a special education program or receives related services, the school district must give you written notice a reasonable amount of time before a proposed change in placement is made. This written notice gives you the opportunity to have input or to object to the proposed change.

Least Restrictive Environment

According to both P.L. 94-142 and Section 504, handicapped children have the right to be educated with non-handicapped children as much time as is appropriate for each handicapped child. P.L. 94-142 says:

> That, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped and
>
> That special classes, separate schooling or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Continuum of Alternative Placements

School districts are required to have a continuum of alternative placements to meet the needs of handicapped children for special education and related services. This continuum must include:

- instruction in regular classes, with resource room or itinerant instruction
- special classes

- special schools
- home instruction
- instruction in hospitals and institutions.

Placement Requirements

Each child's education placement must be:

* Determined at least annually (This provision insures that handicapped children are not placed and then "forgotten," and it insures that the child's educational program continues to be appropriate as the child's needs change.);
* Based on the child's individual education program (IEP);
* As close as possible to the child's home

  Unless a handicapped child's individual education program requires some other arrangement, the child is educated in the school which he or she would attend if not handicapped (P.L. 94-142).

Educational Equity

Your handicapped child has the right to participate in any and all educational programs and services that are available to non-handicapped children in the school district. These programs include art, music, industrial arts, consumer and homemaking education, and vocational education. Your handicapped child also has the right to participate in non-academic and extracurricular services and activities, in which non-handicapped children participate. These may include counseling, health, and transportation services; athletic and recreational activities (such as special interest groups or clubs sponsored by the school); and referral services to agencies that provide assistance to handicapped persons and employment for students, including both employment by the public agency and assistance in making outside employment available. The school district is required to provide handicapped children an equal opportunity to participate in these services. This means that if the school district runs a "late" bus so that non-handicapped students can be transported home from after-school activities, then the district must provide a "late" bus for handicapped students.

Refusal to Place

If the school district refuses to place your child in a special education program or refuses to provide your child with a "free appropriate public education," then the district must give you written notice. That means that if you request a related service that your child needs and the school district refuses to provide it, or if the district refuses to place your child in a program that you feel is appropriate, then you must be informed in writing of that decision and the reasons for the refusal.

PARENTAL ROLE IN MAKING PLACEMENT DECISIONS

You continue to be part of the team that makes decisions about your child's education even after the IEP is written and signed. The next step is to determine the appropriate educational placement for your child.

Once the IEP has been written and you have signed it, ask for a list of placement options. You can make this request at the end of the IEP meeting. The school district should provide you with more than one possible placement. Inform the school district personnel that you would like to observe all placement options, from the most to the least restrictive environments.

Parental Observations

Keeping in mind your child's educational needs, as written on the IEP, and your child's right to be educated in the least restrictive environment, go and observe each of the possible placements. It's wise to make appointments first. Plan to spend a couple of hours at each place. Try to be there during a recess and/or lunch period. Take a notebook and write down your observations of each possible placement. Things to include are:

1. Could your child's educational needs be met in this placement?
2. How much interaction would your child have with non-handicapped students?

3. Is the classroom environment one in which your child would feel comfortable? Why? Why not?

4. Is the school building and the playground accessible to your child?

5. Would your child be able to participate in extracurricular activities at this school?

6. How far is the school from your home? How long would your child be on the bus each day? You know what is best for your child, but a rule of thumb is that more than one hour each way is too long.

Review

When you have completed your observations, make a list of the pros and cons of each placement option. Discuss them with someone who knows your child and your long-term goals for your child. Discuss the placement options with your child, if appropriate. Then discuss them with school district personnel. The decision about placement may be easy, or it may be very difficult.

If you are not satisfied with any of the placement options, think about what would be the ideal placement situation for your handicapped child. Write out a description of that ideal, then decide which aspects are essential to an appropriate educational setting and which aspects are negotiable. Schedule a meeting with a placement person in your local school district who is knowledgeable about your child. Take your child's IEP and a list of your concerns to the meeting. Also, invite a person who is supportive to accompany you. Be prepared to discuss your concerns and to do some negotiating. Hopefully, you and the school district can do some creative problem solving and agree on an appropriate educational placement. (The laws do not say "best" or "most appropriate" education. Defining "appropriate" is where negotiation comes in.)

Outside Placement

In some instances, a school district may not have appropriate placement for some handicapped children. (This is more common is small school districts.) Still, the school district in which the child resides is the one responsible for the education of the handicapped child.

Frequently, a neighboring school district has an appropriate placement, and the child can be bussed there at no cost to the parents. Occassionally, a child may need to be educated in a private school or residential facility.

If a child qualifies for special education, the local school district is responsible for that child's special education and related services, including transportation. All of the child's and parents' rights remain the same. Parents must be aware, however, that only the local school district can authorize services for their child. Therefore, a representative of the local district must be at all IEP meetings.

Parents sometimes decide to send their handicapped child to a private school. If the school district does not recommend, in writing, that the handicapped child attend a private school, then the school district is not financially responsible for the child's private education.

Placement

Once you and the school district have agreed on an educational placement, your child should be placed immediately. When your child is placed in an appropriate program, you will sigh with relief. But your responsibilities do not end here. You must keep in touch with your child's teacher(s) and monitor the implementation of the IEP as well as your child's progress.

By being actively involved in your child's educational progress, you can deal with problems and identify new needs as they arise. Although it is not publicly stated, children whose parents are actively involved in getting and monitoring their programs receive more attention and better services than children whose parents are not active.

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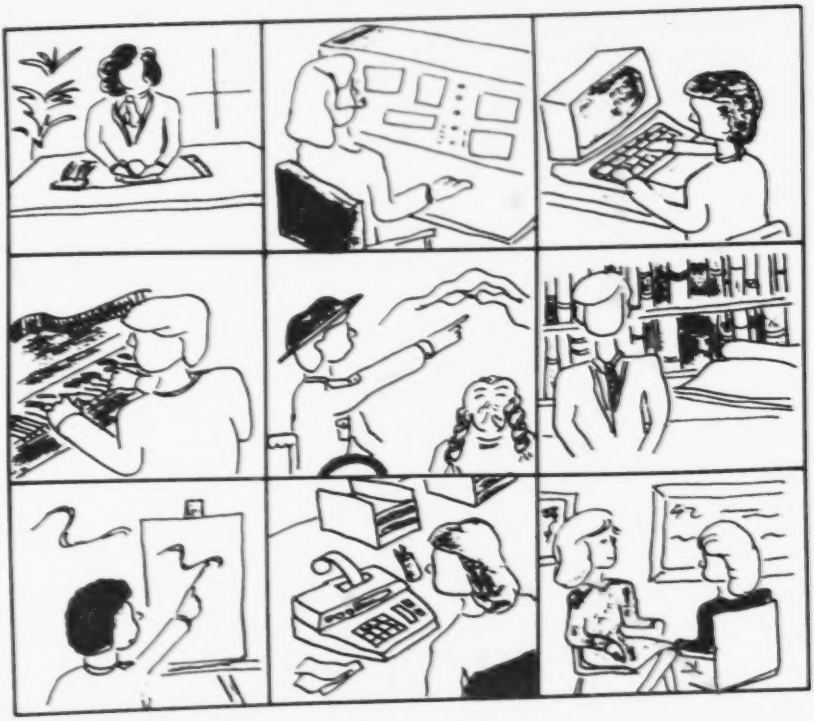

Vocational programs have been available to non-handicapped students for many years. Handicapped students' vocational programs have traditionally been in sheltered workshop settings, which are restrictive environments. Vocational education is a resource that is available for handicapped as well as non-handicapped students. But because parents and students have not exercised their rights, handicapped students have not received the opporunity to learn saleable work skills. This section of the handbook gives you information which will help you make use of a valuable educational resource for your handicapped child.

While some handicapped students are excellent "college material," other handicapped students are not. The same is true of non-handicapped students. Not everyone wants to, or should, go to college. Those handicapped students who want to obtain a college education and who have the academic ability to pass entrance exams should pursue their goals. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of handicap. Consequently, a disabled student cannot be denied admission to college because he or she is handicapped.

What about those handicapped children who are not "college material" or who do not want to go to college? What will they do after high school? How will they get a job? Will they have any job skills? How will they acquire the ones they need? Will they be able to live independently? Will they survive in the mainstream of society? Parents should begin thinking about all these serious questions when their handicapped child is a preschooler.

The Laws

In addition to P.L. 94-142 and Section 504, there is another law, P.L. 94-482, the Vocational Education Act Amendments of 1976, that affects your handicapped child's right to vocational education. P.L. 94-142 says that special education includes vocational education if it consists of specially designed instruction, at no cost to the parents, that meets the unique needs of a handicapped child. P.L. 94-142 de-

fines vocational education as "organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment."

P.L. 94-482 stipulates that the vocational education plans for an individual child must be coordinated with the child's IEP. Section 504 prohibits discrimination in offering handicapped students the opportunity for an education. It also provides for a free appropriate public education which will meet the individual educational needs of handicapped persons as adequately as the needs of non-handicapped persons are met. All three laws, P.L. 94-142, P.L. 94-482, and Section 504, mandate equal opportunities for handicapped students to be educated and trained for employment in the least restrictive environment.

Begin Early

One way for parents to communicate their desire for their child to become a contributing member of society is to put vocational skills in the child's IEP from the preschool years on through high school. Recognizing that vocational preparation begins in infancy makes it easier to include vocational skills in a preschooler's IEP. At the preschool and elementary school levels these goals may be called pre-vocational or career educational goals. By the time a child is preschool age, self-help skills are being learned and are necessary prerequisites for holding a job in later life. Another important pre-vocational aspect of the preschool years is developing socialization skills, which are desirable in any working situation. Being able to follow directions, respecting authority, telling time, understanding and using money, and learning to use transit systems in a community are all pre-vocational skills.

Preschool and Elementary Years

In the preschool and elementary school years of your child's education, you will want to include vocational goals in the IEP that will help your child survive in the mainstream of society. These goals should be things like learning to dress oneself; learning appropriate social skills; learning to use money; learning to tell time and keep to a schedule; learning to use the telephone and telephone book; learning to use the post office; learning to read bus schedules, the news-

paper, the TV guide; learning to fill out job application forms; learning to read recipes and to cook. At this age, your child should also be aware of the many different types of jobs that people do, what the job entails and what special skills and equipment are required. This is sometimes called career awareness. All of these things can be written into your child's IEP. You should be doing the same things with your child at home, in day to day life, that he or she is working on at school.

Junior High and High School

At the junior high school level, many handicapped children are more than ready to begin some specific vocational education classes. This is especially true for those children who are having a difficult time mastering academic subjects. Peer pressure is very strong, and the handicapped student is particularly vulnerable to low self-esteem. Appropriate vocational programs will assist the child in developing some real skills, and they will often motivate him or her to learn concepts such as numbers or reading, since these concepts apply to something the child wants to master.

Vocational Education Assessment

The junior high school level is the time to push for vocational education assessment and placement. A thorough vocational assessment should include the following information:

1.	Cognitive Skills	basic reading and math concept formation cognitive style problem-solving abilities
2.	Manual Skills	manual dexterity eye/hand coordination fine motor skills mobility

3.	Interpersonal Skills	work attitudes ability to cooperate, work with others self-confidence, self-concept relating to others, communicating
4.	Perceptual Skills	spatial discrimination size discrimination
5.	Work Aptitudes	memory for instructions, procedures capability of planning and organizing improvement with practice
6.	Work Behaviors	motivation concentration persistence acceptance of criticism
7.	Interest	personal goals and interests hobbies, leisure time activities favorite and least favorite academic subjects
8.	Previous Experience	work, volunteer in school and at home work-related information, exposure, skills and knowledge
9.	Job Exploration Results	preferences aptitudes strengths weaknesses
10.	Social Adjustment	home/family relationship with peers in school teachers

Research has shown that personal characteristics like life goals, hobbies, extracurricular activities, creative accomplishments, and participation in community activities are better predictors of vocational success than intelligence, aptitude, or personality tests. It is very important, then, that these factors be included in a vocational assessment.

A vocational assessment, like other assessments, should reflect a child's strengths and weaknesses, not test what the child does or does not know. The tests must not be discriminatory. All the provisions about evaluations in the P.L. 94-142 regulations apply to vocational testing as well. (See the Assessments section of this handbook.) Furthermore, vocational assessment should include "hands on" testing; that is, the child must be assessed in a real or simulated work environment using real objects. Part of the vocational assessment includes exploring various vocational options.

Vocational Education and the IEP

Once your child has received a vocational assessment, an IEP must be formulated. Since vocational education is usually distinct from the child's regular and special education program, the vocational education IEP should be a complete and separate document that can be attached to your child's IEP.

If your child has not participated in the IEP process before, now is the time to include your child. Your child's input is essential and must be taken seriously. If at all possible, your child should attend the IEP meeting. Including your child as a member of the team can be a vocational educational experience in itself. Your child will see professionals working together to meet his or her educational needs.

Preparing for the Vocational IEP Meeting

As you prepare to attend an IEP meeting to develop an IEP document regarding your child's vocational education needs, be sure that your child has been fully assessed and that you know your child's present level of vocational performance. Make a list including the following items:

1. Your long-term goals for your child.
2. Your child's long-term goals for him or herself.
3. The things your child needs and wants to learn now.
4. The related services your child will need in the vocational program:
   a. Transportation to and from the vocational program.
   b. Structural adaptation such as lowered work surfaces if your child is in a wheelchair.
   c. A sign language interpreter if needed.
   d. A reader if your child is blind, visually impaired, or learning disabled and unable to read manuals required for the vocational program.
   e. An aide if your child is physically impaired and needs assistance reaching things, manipulating objects, or using machinery.

5. The hours per week your child should be in the vocational setting.

6. The tangible outcome for your child. How will your child know that his or her work has been satisfactory? Part of vocational education should include working for pay. This may be accomplished by paying actual money for work done, by awarding points that may be used to buy privileges, or by letting the student have the finished product of his or her work.

The Vocational IEP Meeting

These people must be present:

- Someone from your school district who can authorize special education services, related services, and vocational education programs for your child;
- Your child's teacher(s);
- A vocational education teacher;
- A vocational program supervisor or someone from vocational education programs who can authorize and supervise the implementation of your child's vocational education goals;
- Your child;
- Yourself.

The Vocational IEP Document

The vocational education IEP document should include the following information:

1. Your child's present level of vocational performance, including:
   a. Results of assessment;
   b. Your child's interests and aptitudes;
   c. Your child's preferred interests;
   d. Prior vocational or occupational experience;
   e. Results of exploration activities in and among various vocational programs.

46 2. Long-term and short-term goals. For example:

Long-term goal: The student will be able to select a vocational program to participate in at the conclusion of a planned exploratory sequence.

Short-term goal: The student will obtain a cross section of experience in the vocational area of construction trade.

Short-term goal: The student will obtain a cross section of experience in the vocational area of metal fabrication.

(Other areas that could be included in the exploratory sequence are: graphic arts, health occupation, business and office education, agricultural education, and home economics.)

It is advisable to make an additional copy of the whole IEP for the vocational education teachers to use as they work with your child.

3. A statement of the specific vocational education services and/or programs in which your child will be participating.

4. A statement of specific related services your child will receive in the vocational education programs.

5. The extent that your child will participate in regular vocational programs.

6. The projected date for the initiation of the vocational education program and the duration of the services.

7. The method by which it will be determined whether your child is achieving the short-term instructional objectives and the date of the next IEP meeting (not to exceed one year from the date of the current IEP).

An additional service that should be included in the vocational education program is counseling that will assist your child in making appropriate vocational choices. A counselor may not discourage or limit a student's choice if that choice may mean a modification in equipment, structures, or educational aids. Section 504 prohibits discrimination on the basis of handicap and requires that accommodations be made to afford handicapped individuals equal opportunity.

As with the child's regular IEP, all of the needs of the child must be provided for in the vocational IEP. If they are not written into the IEP, no one is obligated to meet the needs. Once they are written in the IEP, the home school district is responsible for seeing that the IEP is implemented.

ASSESSMENT FOR VOCATIONAL EDUCATION:

_____ Cognitive Skills
_____ Manual Skills
_____ Interpersonal Skills
_____ Perceptual Skills
_____ Work Skills, Aptitudes, Behaviors
_____ Interests of the Student
_____ Previous Experience
_____ Job Exploration Results
_____ Social Adjustments

TEAM MEMBERS FOR VOCATIONAL IEP:

_____ Vocational and/or Special Education Teacher
_____ Appropriate Vocational Area Instructor
_____ Parents or Guardians of Student
_____ Vocational Supervisor of Coordinator
_____ Coordinator of Special Education
_____ Student
_____ Person able to interpret vocational assessment results

TO BE WRITTEN IN THE IEP:

_____ Date of initiation of vocational education
_____ Programs the student will be in
_____ Transportation to and from vocational programs
_____ Additional agencies or services to be provided
_____ Amount of time student will spend in vocational class
_____ Projected length of services
_____ Projected review date

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Due Process Hearing

If you have a disagreement with the school district about any aspect of your handicapped child's assessment, IEP, or educational placement, you have the right to request a due process hearing. The due process procedure is designed to guarantee you and your handicapped child your rights as set forth in P.L. 94-142. Throughout the handbook these rights have been mentioned. Here is a list of your rights as the parent of a handicapped child:

Parental Rights

1. The right to written notification before evaluation.
2. The right to an interpreter/translator if the primary language is not English.
3. The right to a written notification before change in educational placement.
4. The right to an explanation of the reason an evaluation has been requested and the name of the person(s) who initiated the process.
5. The right to an explanation of the evaluation procedures and instruments that will be used.
6. The right to a description of the scope of the procedures and instruments that will be used.
7. The right to review the procedures and instruments to be used.
8. The right to review and/or obtain copies of all records related to the request for the evaluation and the right to give this authority to a designee of the parent as indicated in writing.
9. The right to request that information in education records be deleted or amended when such information is misleading, inaccurate, or in violation of the privacy of a student.
10. The right to a description of how the findings of the evaluation are to be used, by whom and under what circumstances.
11. The right to refuse permission for the evaluation, with the understanding that the local education agency can then request a hearing to present its reasons and try to obtain approval to conduct the evaluation.

12. The right to be fully informed of the results of the evaluation.
13. The right to obtain an independent education evaluation.
14. The right to a periodic review of the education placement.
15. The right to an impartial hearing, including the right to:
    a. receive timely and specific notice of such hearing
    b. review all records
    c. obtain an independent evaluation
    d. be represented by counsel
    e. cross examine
    f. brief witnesses
    g. present evidence
    h. receive a complete and accurate record of the proceedings
    i. appeal the decision.

If your rights have been violated, you should try to resolve the conflict with the school personnel in an informal manner. If meetings with the school district presonnel do not result in resolution of issues, you may then want to consider requesting a due process hearing.

If you think you may have to go to a hearing to resolve issues with the school district, you should become fully informed of the content of the laws themselves. You can do this on your own by reading P.L. 94-142, Section 504 of the Rehabilitation Act of 1973, and the Family Rights and Privacy Act of 1974. Copies are available from the U. S. Office of Education, Donahoe Building, 400 - 6th Street, S.W., Washington DC 20202. You will also need to get copies of your state special education regulations. Read all of these laws thoroughly and mark all sections which apply to you and your child. Another way you can become more fully informed about your and your child's rights is to contact a local advocacy organization and talk your situation over with an advocate who is knowledgeable about special education laws. From these alternatives you can decide whether or not you need and want to request a due process hearing.

School Responsibilities

P.L. 94-142 stipulates the school district's responsibilities regarding the due process procedures. They are:

1. The school district must conduct (pay for) the hearing.
2. The school district must keep a list of hearing officers and their qualifications.
3. The school district must inform you of any free or low-cost legal services in your area.
4. The school district must pay the hearing officer, who cannot be an employee of the school district and who must be impartial.

Parent's Rights

Your rights regarding a due process hearing are as follows:

1. The right to an impartial hearing.
2. The right to receive timely and specific notice of such hearing.
3. The right to review all records.
4. The right to obtain an independent evaluation.
5. The right to be represented by counsel.
6. The right to call witnesses.
7. The right to cross examine witnesses.
8. The right to present evidence.
9. The right to receive a decision within 45 days of the request for a hearing.
10. The right to receive a complete and accurate record of proceedings.
11. The right to appeal the decision.

Your child has the right to attend the due process hearing and also the right to remain in his or her current educational placement during the time that the issues are being addressed and decided.

A Formal Procedure

Since the due process hearing is a formal hearing conducted much like a court proceeding, most parents do not attempt to present their own case. If you are seriously considering requesting a due process hearing or have decided to do so, contact an attorney or a special education ordisabilities advocacy organization and try to get someone to represent your case. Not all attorneys are familiar with special education legislation, so you will need to work closely with the attorney to be sure that your child's special situation remains the focus of the process. Share this handbook with your attorney if he or she is not familiar with special education laws. Be prepared to "brief" your attorney on the case. And find out where the attorney might turn for more information.

Requesting a Due Process Hearing

You must write a letter to the Director of Special Education or the Superintendent of your school district to request a due process hearing. State that you are requesting a due process hearing and briefly explain the issue. Send a copy of the letter to your state Director of Special Education.

You should receive a reply for the school district, setting a date for the hearing and informing you of any free or low-cost legal services in your area and anything you must do prior to the hearing. One thing you may be asked to do is inform the hearing officer of your issues prior to the hearing. Another possibility is that the hearing officer will want to meet with you and the school district to define the issues and try to mediate and resolve them prior to the hearing (this is called a pre-hearing conference). Any mediation will not postpone your hearing date. You maintain the right to receive a hearing decision within forty-five days from the date you requested the hearing.

Attending Mediation

Although you have the right not to go to a mediation session, it is wise to attend. Attending a mediation meeting shows that you are interested in resolving the issues and getting your child's educational situation straightened out as quickly, and with as little hassle, as possible. It is also possible that the issues will be resolved at the

mediation session, which is much less formal than a hearing. Should you go to a mediation meeting, be as thoroughly prepared as you would be for a hearing. Take copies of all the documents which you have collected to support your position. Be prepared to state your position as clearly and concisely as possible. Check with the hearing officer about what you should bring and be prepared for at the mediation session. Again, take someone along who is knowledgeable about your child and special education laws.

Case Preparation

It is not essential that you have an attorney to represent you at a due process hearing. It is, however, mush easier to get through a hearing with an attorney representing you. The school district will undoubtedly have legal counsel. If you decide to present your child's case yourself, you must be thoroughly prepared.

Define the Issues

You must be very clear about each and every issue that you and the school district do not agree on. Write out a list of the issues and be very specific. Note what evidence and/or justification you have for your position on each issue. Then note what the school district's position is on that issue and what justification they have. (You should have the school district's reasons for their proposed actions or refusals in writing.)

Know the Laws

Read all the laws and note the sections of each law which apply to your case. Put the relevant sections by each issue you have defined.

Review All Records

At this point, it is essential that you review all of your child's educational records. Do not assume that you know what is in them. Go and see for yourself. Get copies of everything. Take notes on anything that will document your case. Also note anything in the records that the school district may be using to document their case and think of counter arguments for each item.

Document Your Case

Select those documents that will support your position. Also include any documents you have that are not from the school records and that may support your case; i.e., doctors' reports. Assessments done by agencies outside the school district are very important and may be your most significant evidence. Be very clear about what documents support which issues. Do not include any documents that are ambiguous. Keep the documents that you want to present as evidence to a minimum.

Witnesses

Determine who you will need to testify at the hearing. Your witnesses might be your child's physician, therpist, tutor, or teacher(s). If your child has been assessed outside of the school district and the results of the assessment are part of your evidence, you will want the person(s) who did the assessment at the hearing. Again, you must be very clear about what each witness will offer in support of your case. They must be fully informed about your child and the issues at hand and agree to go to the hearing. Witnesses should be brief and specific. You should design questions to ask them that will bring out the exact points you want to make. You must also inform them that the school district's attorney has the right to question them and that the hearing officer may do the same. Keep in mind that witnesses can only tell what they personally know to be true, not what someone else told them.

Practice

After you have prepared your case as thoroughly as possible, discuss it with someone who is knowledgeable about due process hearings. An attorney, an advocate, or another parent who has been through a due process hearing would be most helpful. Things that you might ask the person are:

1. How clear are the issues?
2. Is all of the evidence directly related to the issues?
3. What response might the school district make to your case?
4. How could you make your case stronger?

Advocate/Friend

Find someone who is knowledgeable about your child and who has some knowledge of special education law to accompany you to the hearing. An advocate from a local parent group would be a good support person.

Personal Representation

After you have done everything you can to prepare, learn your argument inside out and backwards. You need to present your side of the issue clearly and concisely, in your normal way of communicating. Do not try to use words that you do not normally use. Be confident that, as the parent of your child, you are the expert about your child's unique needs and that you are the person most concerned about your child's welfare, now and in the future.

Keep in mind that the hearing officer does not know your child or your child's history. You must bring out anything you think the hearing officer should know about your child. The hearing officer will make his or her decision based solely on the information that is given him or her in the hearing by you and the school district. This is a time to be assertive. Do not let any of your issues or concerns go unaddressed in the hearing.

Cross Examining Witnesses

Be prepared to cross examine witnesses the school district brings to the hearing. This is where your support person can be very helpful. Ask that person to listen carefully to any testimony by the school district's witnesses and to make notes on statements that you may wish to have clarified or that may be in direct opposition to anything that you are presenting. Address any questions you have about a witness' testimony to the person immediately. Do not assume that the questions will be answered later in the hearing.

Recording

The school district is responsible for seeing that a verbatim record of the proceedings is made. This may be done by recording the session or by having a court reporter present. You are entitled to receive a copy of this verbatim record.

Post-hearing Procedures

After the hearing (within forty-five days of your request for the hearing) you will receive the hearing officer's decision. If the decision is not in your favor, you may want to appeal to the State Education Agency for a review of the hearing decision. If you decide to appeal, you must do so quickly (within 10 days), and you may expect a decision within 30 days from the hearing decision. Be aware that the school district may also appeal the hearing officer's decision.

If you still want to pursue the issues after the State Education Agency has reached its decision, you may take the case through the court system. Obviously, you should hire an attorney if you decide to pursue the issue beyond the Due Process procedure within the educational system.

You should not accept any of the following reasons for denying education to your child:

1. We do not have classes for your child.
2. We do not have room in our class to include your child.
3. We do not take retarded children until they are 8 years old.
4. We do not accept children who have not reached a mental age of five years.
5. We do not have classes for junior or senior high school age exceptional children.
6. We do not accept children who are behavior problems.
7. We do not accept children who have more than one handicap.
8. We do not have enough money to provide that service or class.
9. We will put your child on a waiting list.
10. We will stop our programs for other exceptional children if you make trouble for us.
11. We will postpone your child's admission and let you know when he or she can come to school.
12. We are not going to educate or provide a training program for your child.
13. Your child can no longer benefit from any education or training.
14. If we provide for your child, we will have to take away from someone else's child.
15. If you do not sign the IEP, your child cannot remain in the program.

Using this handbook, you should have no problem getting through the process of obtaining a free appropriate public education for your handicapped child. However, if you run into snags in the process and are not sure how to handle them, call a local advocacy organization for suggestions or assistance.

Remember, you are the best advocate for your handicapped child. You are capable of understanding and standing up for your and your child's rights. Armed with knowledge of the laws, you can require the school district to comply in regard to your child's education. The wonder of P.L. 94-142 is that it gives parents power. This law explicitly defines your role as a member of the team that plans your handicapped child's educational course. With knowledge of the law, you are in an excellent postion to require a free appropriate public education for your handicapped child.

Being the parent of a handicapped child isn't always easy, and sometimes obtaining a free appropriate public education seems to be more work than it's worth. If, or when, you feel that way, ask yourself these two questions: 1) Who will make sure my child is educated if I do not? 2) Who, in the final analysis, suffers if my handicapped child does not receive a free appropriate public education?

The fact is: No one will make sure that your child will be educated if you do not. Sure, your child may go to school everyday, but going to school and being educated are not necessarily the same thing. A handicapped child's parents must be actively involved in the process of obtaining a free appropriate public education.

The reality is: Your child and you suffer if your child is not educated to maximize his or her potential. It is highly unlikely that a single person in the "system" will lose even one moment's sleep if your child does not receive an appropriate education. When your handicapped child turns twenty-one years of age the educational system is no longer responsible. Your child's file is put in storage and forgotten.

These two questions give me the courage and strength to persevere when I think I have no courage or strength left. It isn't always easy, but our handicapped children are always worth the effort. I do hope this handbook has helped you to understand the process of obtaining a free appropriate public education for your handicapped child, and that it encourages you to stand up for your and your child's rights.

HOW TO GET MORE COPIES OF

"OBTAINING A FREE APPROPRIATE PUBLIC EDUCATION"
A Handbook for Parents of Children with Special Needs

Single copies are available at no charge to parents of children with special needs. Additional copies are available by sending $3 per copy plus 50 cents postage.

PLEASE SEND ME:

_____ One (1) copy of free booklet for parents of children with special needs.

_____ Copies of "Obtaining a Free Appropriate Public Education" (at $3.50 each).

RETURN TO: Washington PAVE
1010 South I Street
Tacoma, WA 98405

About the Author

Beth Ann Kelly has actively advocated for her handicapped son's right to a free appropriate public education since 1976. In 1979, she received advocacy training from the Parent's Campaign for Handicapped Children and Youth of Washington, D.C. and from the Disability Rights Education and Defense Fund of Berkeley, California. She assisted in the formation of the PAVE Parent-to-Parent Training Project in Tacoma, Washington and served as its first training coordinator. In addition to this handbook, she has written a number of articles on parenting and the rights of disabled individuals. Currently, she is writing a curriculum guide for educators on the topic of educational equity for disabled students. She lives in Kaneohe, Hawaii with her husband and two children.

About the Artist

Burton D. Pusch relays the following:

"I have terrific parents. As I was growing up, they helped me to recognize the difference between having a physical disability (physical difference) and being handicapped (that is, unacceptable).

"I enjoy swimming, hiking, composing on the piano, calligraphy, oil painting - nearly everything I've tried, I can do in some way or another. Medically speaking, I am considered 'severely disabled'. I guess that's the term they have for someone who wears prosthetics and orthotics on his limbs and greets life with three fingers. As for me, I simply consider myself a member of the human race - like everyone else."